

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

The United States of America,  
ex rel., Andrew M. Garner, III,  
and Andrew M. Garner, III, individually,

Plaintiffs,

v.

Anthem Insurance Companies, Inc., an  
Indiana corporation; AdminaStar Federal, Inc.,  
an Indiana corporation; FiServ Solutions, Inc.,  
a Wisconsin corporation; Anthem Prescription  
Management, Inc., an Ohio corporation;  
American Health Network of Indiana, Inc., an  
Indiana corporation; Paragon Health Systems,  
LTD., an Ohio limited liability company; and,  
Wright Health Associates, Inc.; an Ohio  
corporation,

Defendants.

Case No.1:00CV463

Senior Judge S. Arthur Spiegel

NOTICE OF DISMISSAL

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(2) and (4), the United States having intervened in this case, hereby notifies the Court that it voluntarily dismisses this action, with the exception of any claims by the Relator for expenses, attorneys' fees and costs under 31 U.S.C. § 3730(d)(1), or for entitlement to a share of the proceeds of the attached Settlement Agreement under 31 U.S.C. § 3730(d), and with the exception of Count VI of the Complaint, for retaliatory discharge under 31 U.S.C. §3730(h), pursuant to Rule 41(a), Fed. R. Civ. P., and in accordance with the terms of the attached Settlement Agreement. The United States dismisses Count I of the Complaint

with respect to AdminaStar Printmail and Anthem Prescription with prejudice and dismisses the remainder of the Complaint, with the exception of any claims by the Relator for expenses, attorneys' fees and costs under 31 U.S.C. § 3730(d)(1), or for entitlement to a share of the proceeds of the attached Settlement Agreement under 31 U.S.C. § 3730(d), and with the exception of Count VI of the Complaint, for retaliatory discharge under 31 U.S.C. §3730(h), without prejudice. The United States asks that the Court retain jurisdiction to resolve any disputes arising under the Settlement Agreement, to enforce the Agreement, and to decide issues, including jurisdictional issues, if any, concerning relator share and attorney fees and costs. The United States reserves the right to challenge or seek dismissal of Relator's claim to a share of the proceeds on jurisdictional or any other grounds.

A proposed order accompanies this Notice.

Respectfully submitted,

GREGORY G. LOCKHART  
United States Attorney

s/Kenneth F. Affeldt  
KENNETH F. AFFELDT (0052128)  
Assistant United States Attorney  
303 Marconi Boulevard  
Suite 200  
Columbus, Ohio 43215  
(614) 469-5715  
Fax: (614) 469-2769  
Ken.Affeldt @usdoj.gOV

s/ Stanley E. Alderson  
MICHAEL F. HERTZ  
JOYCE R. BRANDA  
STANLEY E. ALDERSON  
U.S. Department of Justice  
Post Office Box 261  
Ben Franklin Station  
Washington, D.C. 20044  
Telephone: (202) 307-6696

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SOUTHERN DISTRICT OF OHIO  
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The United States of America,  
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an Indiana corporation; FiServ Solutions, Inc.,  
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LTD., an Ohio limited liability company; and,  
Wright Health Associates, Inc.; an Ohio  
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Defendants.

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ORDER

The United States having intervened in this action pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4), and having voluntarily dismissed this action, with the exception of any claims by the Relator for expenses, attorneys' fees and costs under 31 U.S.C. § 3730(d)(1), or for entitlement to a share of the proceeds of the attached Settlement Agreement under 31 U.S.C. § 3730(d), and with the exception of Count VI of the Complaint, for retaliatory discharge under 31 U.S.C. § 3730(h), the Court rules as follows:

IT IS HEREBY ORDERED that this action is dismissed in accordance with the terms of the attached Settlement Agreement, with the exception of any claims by the Relator for expenses, attorneys' fees and costs under 31 U.S.C. § 3730(d)(1), or for

entitlement to a share of the proceeds of the attached Settlement Agreement under 31 U.S.C. § 3730(d), and with the exception of Count VI of the Complaint, for retaliatory discharge under 31 U.S.C. §3730(h). Count I of the Complaint, with respect to AdminaStar Printmail and Anthem Prescription, is dismissed with prejudice and the remainder of the Complaint, with the exception of any claims by the Relator for expenses, attorneys' fees and costs under 31 U.S.C. § 3730(d)(1), and with the exception of Count VI of the Complaint, for retaliatory discharge under 31 U.S.C. §3730(h), is dismissed without prejudice. The Court retains jurisdiction to resolve any disputes arising under the Settlement Agreement and to enforce the Agreement, and to decide issues, including jurisdictional issues, if any, concerning relator share and attorney's fees and costs. The United States retains the right to challenge or seek dismissal of Relator's claim to a share of the proceeds on jurisdictional or any other grounds.

BY THE COURT:

Dated: \_\_\_\_\_

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

or

\_\_\_\_\_  
UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Dismissal, Settlement Agreement and Order was served this 8<sup>th</sup> day of August, electronically on: James B. Helmer, Jr., John Timothy Keller, Paul Bryan Martins, Robert M. Rice.

s/Kenneth F. Affeldt

KENNETH F. AFFELDT (0052128)

Assistant United States Attorney